

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 352

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-909, IDAHO CODE, TO REVISE WHAT AND HOW MONEYS ARE RECEIVED AND EXPENDED BY THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5217, IDAHO CODE, TO PROVIDE THAT PUBLIC CHARTER SCHOOLS MAY ELECT TO PURCHASE A STATE GUARANTEE OF LOAN REPAYMENT FOR WHICH THE SCHOOL WILL BE USING CERTAIN PROCEEDS, TO PROVIDE FOR WHAT LAWFUL USES FUNDS MAY BE USED, TO PROVIDE PROHIBITED USES OF THE LOAN GUARANTEE, TO PROVIDE PROCEDURES AND TO CREATE THE PUBLIC CHARTER SCHOOL FACILITY GUARANTEE FUND.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-909, Idaho Code, be, and the same is hereby amended to read as follows:

33-909. PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM -- FUND CREATED. (1) In fulfillment of the constitutional requirement to provide a general, uniform and thorough system of public, free common schools, it is the intent of the state of Idaho to advance its responsibility for providing a safe environment conducive to learning by providing a public school facilities funding program to enable qualifying school districts to address unsafe facilities identified as unsafe under the standards of the Idaho uniform school building safety act.

(2) Participation in the program, for the purpose of obtaining state financial support to abate identified school building safety hazards, requires submission of an application to the public school facilities cooperative funding program panel. Application can be made by:

(a) Any school district that has failed to approve at least one (1) or more bond levies for the repair, renovation or replacement of existing unsafe facilities, within the two (2) year period immediately preceding submission of the application; or

(b) The administrator of the division of building safety, for a school district that has failed to address identified unsafe facilities as provided in chapter 80, title 39, Idaho Code.

(3) There is hereby created within the office of the state board of education the Idaho public school facilities cooperative funding program panel, hereafter referred to as the panel. The panel shall consist of the administrator of the division of building safety, the administrator of the division of public works and the executive director of the state board of education, or a designee appointed by a panel member. It shall be the duty of the panel to consider all applications made to it, and to ~~either~~ approve, modify or reject an application based on the most economical solution to the problem, as analyzed within a projected twenty (20) year time frame.

1 (4) The application shall contain the following information:

2 (a) The identified school building safety hazards and such other infor-
3 mation necessary to document the deficiencies;

4 (b) The school district's plan for abating the defects, including costs
5 and sources and amounts of revenue available to the school district;

6 (c) The market value for assessment purposes of the school district;
7 and

8 (d) A detailed accounting of all bond and plant facility levies of the
9 school district and the revenues raised by such levies.

10 For applications initiated by the administrator of the division of building
11 safety pursuant to subsection (2) (b) of this section, the school district
12 shall provide the information required in this subsection (4) if such infor-
13 mation is not available to the administrator.

14 (5) In considering an application, the panel shall determine whether
15 the plan as proposed is acceptable, or is acceptable with modifications as
16 determined by the panel, or should be rejected. The panel shall notify the
17 applicant of its decision, in writing, within sixty (60) days of receiv-
18 ing the application. At the same time the panel notifies the applicant,
19 the panel shall send notification of an approved application or a modified
20 application to the state board of education, along with the panel's specifi-
21 cations for the project and its cost.

22 (6) If an application received from a school district is accepted or
23 modified by the panel, the local board of trustees of that school district,
24 at the next election held pursuant to section 34-106, Idaho Code, shall sub-
25 mit the question to the qualified electors of the school district of whether
26 to approve a bond in the amount of the cost of the project as approved by the
27 panel.

28 (7) Within thirty-five (35) calendar days of receiving notification
29 from the panel that an application submitted by the administrator of the di-
30 vision of building safety pursuant to subsection (2) (b) of this section has
31 been approved or modified by the panel, or within thirty-five (35) calendar
32 days of receiving certification from the panel that the question submitted
33 to the electorate pursuant to subsection (6) of this section was not approved
34 in the election, the state board of education shall appoint a district su-
35 pervisor for interim state supervision of the local school district. The
36 district supervisor shall be responsible for ensuring that the project, as
37 approved by the panel, is completed and shall regularly report to the panel
38 in a manner as determined by the panel upon approval of the project. The dis-
39 trict supervisor shall also have the authority granted to said position by
40 the provisions of section 6-2212, Idaho Code. A district supervisor's term
41 of service shall continue for the duration of the project, and such person
42 appointed as a district supervisor shall serve at the pleasure of the state
43 board of education.

44 (8) Upon approval of an application or a modified application submitted
45 by the administrator of the division of building safety pursuant to subsec-
46 tion (2) (b) of this section, or upon receipt of certification from the county
47 that the question submitted to the electorate pursuant to subsection (6) of
48 this section was not approved in the election, the panel shall certify the
49 cost of the project, as approved by the panel, to the state department of edu-
50 cation.

(a) The total cost of the project shall initially be paid by the state from the public school facilities cooperative fund.

(b) The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support program in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.

(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (9) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

(d) The levy rate calculated by the state department of education shall be certified by the department to the county or counties wherein the boundaries of the school district are contained, for assessment of the levy and collection of the revenues by such county or counties in the manner provided by law. The revenues collected by imposition of the state-authorized plant facilities levy shall be remitted to the state treasurer for deposit to the public school facilities cooperative fund.

(9) The annual state-authorized plant facilities levy rate shall be limited to the greater of:

(a) The difference between the school district's combined bond and plant facilities levy rates, and the statewide average bond and plant facility levy rates; or

(b) The statewide average plant facility levy rate.

The initial levy rate so calculated shall be established as the minimum levy rate that shall be imposed for the amount of time required to reimburse the state for the school district's share of the project cost, but not to exceed twenty (20) years, even if this period would not provide reimbursement of the entire amount of the school district's share of the cost of the project. The state department of education is authorized and directed to recalculate the levy rate on an annual basis, and is authorized to increase or decrease the levy rate according to the scheduled payback, but the levy rate shall not be less than the levy rate initially imposed. Provided however, if the levy rate calculated is estimated to raise more money than would be necessary to repay the district's share of costs, then the state department of education shall certify to the county or counties wherein the boundaries of the school district are contained, the moneys necessary to repay the district's share of costs.

(10) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation and section 33-5217, Idaho Code. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program and make transfers pursuant to section 33-5217, Idaho Code, and are hereby continuously appropriated for such purposes as authorized by this section. Moneys in the fund shall be invested by the state

1 treasurer in the same manner as provided under section 67-1210, Idaho Code,
2 with respect to other idle moneys in the state treasury. Interest earned on
3 the investments shall be credited to the school district building account.

4 SECTION 2. That Chapter 52, Title 33, Idaho Code, be, and the same is
5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
6 ignated as Section 33-5217, Idaho Code, and to read as follows:

7 33-5217. CHARTER SCHOOL FACILITY LOAN GUARANTEE. (1) Public charter
8 schools may elect to purchase a state guarantee of loan repayment for any
9 loan in which the school will be using the proceeds exclusively for purposes
10 described in section 33-1102, Idaho Code, provided that such usage must in-
11 clude, at a minimum, at least one (1) of the following:

12 (a) Acquisition, purchase or improvement of a school site;

13 (b) Construction of a schoolhouse or other building used for public
14 charter school purposes;

15 (c) Adding to, repairing or remodeling an existing building used for
16 public charter school purposes.

17 (2) The state shall provide no loan guarantee on any loan in which:

18 (a) The amount of the loan exceeds the appraised value against which the
19 loan is secured; or

20 (b) Another loan is secured against the property for which the loan
21 guarantee is being requested.

22 (3) The cost of purchasing a state guarantee of loan repayment shall be
23 equal to six percent (6%) of the value of the loan being guaranteed. Such
24 payment shall be made to the state department of education at the time that
25 the loan is made, and not after. The state department of education shall de-
26 posit such payment in the public charter school facility guarantee fund.

27 (4) Loan payments made by public charter schools on loans guaranteed
28 pursuant to this section are hereby declared to be the highest obligation of
29 a public charter school and shall be paid before any other obligation. If a
30 public charter school fails to make a loan payment for any loan guaranteed
31 pursuant to this section, the lender may notify the state department of ed-
32 ucation of such failure. If the state department of education determines
33 that the public charter school has failed to make a payment owed on any loan
34 guaranteed pursuant to this section, the department shall deduct the amount
35 owed from any state moneys that would otherwise be paid to the public charter
36 school pursuant to section 33-1009, Idaho Code, and shall make such payment
37 to the lender.

38 (5) For any public charter school owing moneys on a loan guaranteed pur-
39 suant to this section in which the public charter school has declared bank-
40 ruptcy or has received a notice of final charter revocation, the public char-
41 ter school's moneys and real and personal property shall be disbursed or sold
42 for the purposes of satisfying any moneys owed on loans guaranteed pursuant
43 to this subsection. Provided however, that any real or personal property in
44 which there is a lien from a nonguaranteed loan against such property, and no
45 lien from a guaranteed loan, shall not be included.

46 (6) Upon the conclusion of the processes described in subsection (5) of
47 this section, the state department of education shall disburse moneys from
48 the public charter school facilities guarantee fund for the purposes of mak-
49 ing up any moneys still owed on a loan guaranteed pursuant to this section.

1 (7) There is hereby created in the state treasury the public charter
2 school facility guarantee fund. The fund shall contain moneys deposited
3 pursuant to this section. This fund is hereby continuously appropriated for
4 the purposes stated in this section. If the moneys in this fund are insuf-
5 ficient to meet the obligations of any payments made pursuant to subsection
6 (6) of this section, then moneys shall be transferred from the public school
7 facilities cooperative fund in sufficient amount to meet said obligations.
8 If such a transfer takes place, an amount equal to the amount of said trans-
9 fer shall be transferred from the public charter school facility guarantee
10 fund to the public school facilities cooperative fund, when such moneys are
11 available.